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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,225	10/06/2005	Mike Voigt	3433	6777
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER				
NGUYEN, DUNG V				
ART UNIT		PAPER NUMBER		
3723				
MAIL DATE		DELIVERY MODE		
05/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,225

Applicant(s)

VOIGT ET AL.

Examiner

Dung Van Nguyen

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3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-26, 28, 29 and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rudolf et al (EP 0 973 353). Rudolf et al discloses a system comprising a guard 14, a power tool 10, a rotation-prevention means comprising a blocking means 31 on a guard side and a stop means 32 on a power tool side, an attachment means 17 for clamping the guard 14 to the power tool 10, wherein the stop means 32 limits rotation of the guard 14, wherein the rotation of the guard is independent of a tightening torque to attached the guard 14, wherein the rotation-prevention means limits rotation of the guard 14 to a narrow angular range or entirely prevents rotation of the guard 14, wherein the guard 14 can be fixed to any position in a limiting groove 32, wherein the a collar 12 includes an insertion groove 34 with a limiting groove 32 located at an angle (note Fig. 1-5, paragraph [0035] through [0045]).

2. Claims 24, 25 and 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rudolf et al (USPN 4,924,635). Rudolf et al discloses a power tool 1 with motor located in housing 3 for driving an insertion tool 6, a rotation-preventing means for preventing the insertion tool from being released in a direction of an operator, the rotation-prevention means including a stop means 30 for a blocking means 31, wherein

the stop means projects outward at an angle from the housing 3 (note Fig. 1-2, col. 4, lines 29-60).

Response to Arguments

3. Applicant's arguments filed have been fully considered but they are not persuasive. Applicant argues the stop means limits rotation of the guard 16 in the event of shattering of an insert tool 14 in an operation mode of the power tool. The argument is not persuasive because MPEP 2114 states "Apparatus claims must be structurally distinguishable from the prior art" and "Manner of operating the device does not differentiate apparatus claim from the prior art". Rudolf '353 discloses all the structural limitations of the claims, therefore, the device of Rudolf '354 would perform the same function of providing safety mechanism in the event of an accidental shattering or busting of an insert tool. Applicant argues claim 15 is not anticipated by the Rudolf '635 reference. The argument is not persuasive because claim 15 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rudolf et al (EP 0 973 353) and not by Rudolf et al (USPN 4,924,635).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
5. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Van Nguyen whose telephone number is 571-272-4490. The examiner can normally be reached on PHP Program.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dung Van Nguyen/
Primary Examiner, Art Unit 3723
April 30, 2008

